

Greenbaum Rowe
Smith & Davis LLP

COUNSELORS AT LAW

75 LIVINGSTON AVENUE
SUITE 301
ROSELAND, NJ 07068-3701
(973) 535-1600 FAX (973) 535-1698

INFO@GREENBAUMLAW.COM
WWW.GREENBAUMLAW.COM

WOODBIDGE OFFICE:
METRO CORPORATE CAMPUS ONE
P.O. BOX 5600
WOODBIDGE, NJ 07095-0988
(732) 549-5600
FAX (732) 549-1881

DELIVERY ADDRESS:
99 WOOD AVENUE SOUTH
ISELIN, NJ 08830-2712

ROBERT M. GOODMAN
(973) 577-1770 - DIRECT DIAL
(973) 577-1771 - DIRECT FAX
RGOODMAN@GREENBAUMLAW.COM

March 3, 2021

VIA ECF

Hon. Claire C. Cecchi, U.S.D.J.
United States District Court
District of New Jersey
Martin Luther King, Jr. Federal Building
& U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: In re Biogen '755 Patent Litigation, C.A. No. 10-2734 (CCC)(MF)

Dear Judge Cecchi:

We represent Bayer HealthCare Pharmaceuticals, Inc. ("Bayer") in the above-captioned matter. EMD Serono, Inc. and Pfizer Inc. (collectively, "Serono") have filed a Petition for Writ of Mandamus at the U.S. Court of Appeals for the Federal Circuit. Fed. Cir. No. 21-117.

Bayer would prefer to avoid mandamus practice, and again respectfully requests that the Court enter final judgment in favor of all defendants, including Bayer, now that all claims of the patent-in-suit have been invalidated by the court of appeals. *See* ECF Nos. 1104, 1109, 1119. While Biogen has requested a delay, it has stipulated that it does not oppose entry of final judgment in favor of Bayer and Novartis in the event that the Court enters final judgment in favor of Serono. ECF No. 1121.

However, because the Federal Circuit has now ordered a responsive brief from Biogen regarding Serono's Petition to be filed in under two weeks, ECF No. 1124, Bayer writes to advise the Court that in the absence of final judgment, it expects to file its own petition on Friday, March 5, 2021, requesting that Bayer be granted the same relief that

Hon. Claire C. Cecchi, U.S.D.J.

March 3, 2021

Page 2

Serono has requested, to ensure that the Federal Circuit can consider all defendants at the same time.

Thank you for your consideration of this matter.

Respectfully submitted,

GREENBAUM, ROWE, SMITH & DAVIS LLP

/s/ Robert M. Goodman

ROBERT M. GOODMAN

RMG

cc: All Counsel (via ECF)